

No. 4234. AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOUTH AFRICA CONCERNING THE CIVIL USES OF ATOMIC ENERGY. SIGNED AT WASHINGTON ON 8 JULY 1957<sup>1</sup>

AMENDMENT<sup>2</sup> TO THE ABOVE-MENTIONED AGREEMENT. SIGNED AT WASHINGTON ON 17 JULY 1967.

*Authentic text: English.*

*Registered by the United States of America on 1 October 1969.*

The Government of the United States of America and the Government of the Republic of South Africa,

Desiring to amend the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of South Africa Concerning the Civil Uses of Atomic Energy signed at Washington on July 8, 1957<sup>3</sup> (hereinafter referred to as the "Agreement for Cooperation"), as amended by the Agreement signed at Washington on June 12, 1962,<sup>4</sup>

Agree as follows:

#### *Article I*

Article II of the Agreement for Cooperation is amended by deleting the word "ten" and substituting in lieu thereof the word "twenty".

#### *Article II*

Paragraph A of Article VI of the Agreement for Cooperation, as amended, is amended to read as follows:

"A. Materials of interest in connection with the subjects of agreed exchange of information, as provided in Article IV and subject to the provisions of Article III, including source material, by-product materials, other radioisotopes, stable isotopes, and special nuclear material for purposes other than fueling reactors and reactor experiments may be transferred between the Parties for

<sup>1</sup> United Nations, *Treaty Series*, vol. 290, p. 147, and vol. 458, p. 328.

<sup>2</sup> Came into force on 17 August 1967, the date on which each Government had received from the other Government written notification that it had complied with all statutory and constitutional requirements, in accordance with article VIII.

<sup>3</sup> United Nations, *Treaty Series*, vol. 290, p. 147.

<sup>4</sup> *Ibid.*, vol. 458, p. 328.

defined applications in such quantities and under such terms and conditions as may be agreed when such materials are not commercially available.”

### *Article III*

Article VII of the Agreement for Cooperation, as amended, is amended to read as follows:

“A. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of materials other than special nuclear material, equipment and devices and for the performance of services.

“B. It is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of special nuclear material and for the performance of services with respect thereto for the uses specified in Articles VI and VIII of this Agreement and subject to the limitations of Article IX of this Agreement.

“C. The Parties agree that the activities referred to in paragraphs A and B of this Article shall be subject to the limitations in Article III and to the policies of the Parties with regard to transactions involving the authorized persons referred to in paragraphs A and B.”

### *Article IV*

Article VIII of the Agreement for Cooperation, as amended, is amended to read as follows:

“A. During the period of this Agreement, the United States Commission will supply to the Government of the Republic of South Africa, under terms and conditions as the Parties may agree, and subject to the quantity limitation established in Article IX, such quantities of uranium enriched in the isotope U-235 as may be agreed for use in a power reactor program in South Africa.

- (1) The United States Commission will supply such enriched uranium by providing after December 21, 1968, for the production or enrichment, or both, in facilities owned by the Commission, of enriched uranium for the account of the Government of the Republic of South Africa.
- (2) Notwithstanding the provisions of subparagraph A (1) above, if the Government of the Republic of South Africa so requests, the United States Commission, at its election, may sell the enriched uranium to the Government of

the Republic of South Africa under such terms and conditions as may be agreeable to the Parties.

“B. As the Parties may agree, the United States Commission will transfer to the Government of the Republic of South Africa uranium enriched in the isotope U-235 for use as fuel in defined research applications, including research reactors, materials testing reactors and reactor experiments, subject to the quantity limitations in Article IX. The terms and conditions of each transfer shall be agreed upon by the Parties, it being understood that in the event of transfer of title of enriched uranium, the Commission shall have the option of limiting the arrangements to undertakings such as those described in subparagraph A (1) of this Article.

“C. With respect to transfers of uranium enriched in the isotope U-235 provided for in paragraphs A and B of this Article, it is understood that:

- (1) contracts specifying quantities, enrichments, delivery schedules, and other terms and conditions of supply or service will be executed on a timely basis between the United States Commission and the Government of the Republic of South Africa, and
- (2) prices for uranium enriched in the isotope U-235 sold and charges for enrichment services performed and the advance notice required for delivery will be those in effect at the time of delivery for users in the United States. The United States Commission may agree to supply enriched uranium or perform enrichment services upon shorter notice, subject to assessment of such surcharge to the usual base price as the United States Commission may consider reasonable to cover abnormal production costs incurred by the United States Commission by reason of such shorter notice.

“D. It is agreed that, should the total quantity of enriched uranium which the United States Commission has agreed to provide pursuant to this and other Agreements for Cooperation reach the maximum quantity of enriched uranium which the United States Commission has available for such purposes, and should the Government of the Republic of South Africa not have executed contracts covering the adjusted net quantity specified in Article IX, the United States Commission may request, upon appropriate notice, that the Government of the Republic of South Africa execute contracts for all or any part of such enriched uranium as is not then under contract. It is understood that, should the Government of the Republic of South Africa not execute a contract in accordance with a request by the United States Commission hereunder, the United States Commission shall be relieved of all obligations to the Government

of the Republic of South Africa with respect to the enriched uranium for which such contract has been so requested.

“E. The enriched uranium supplied hereunder may contain up to twenty percent (20%) in the isotope U-235. The United States Commission, however, may make available a portion of the enriched uranium supplied hereunder as material containing more than 20% in the isotope U-235 when there is a technical or economic justification for such a transfer.

“F. With respect to all special nuclear material not owned by the Government of the United States of America produced in reactors while fueled with materials obtained from the United States of America by means other than lease which is in excess of the need of the Government of the Republic of South Africa for such materials in its program for the peaceful uses of atomic energy, the Government of the United States of America shall have and is hereby granted (a) a first option to purchase such material at prices then prevailing in the United States of America for special nuclear material produced in reactors which are fueled pursuant to the terms of an Agreement for Cooperation with the Government of the United States of America, and (b) the right to approve the transfer of such material to any other nation or a group of nations in the event the option to purchase is not exercised.

“G. It is agreed that when any special nuclear material received from the United States of America requires reprocessing, such reprocessing shall be performed at the discretion of the United States Commission in either United States Commission facilities or facilities acceptable to the United States Commission, on terms and conditions to be later agreed; and it is understood, except as may be otherwise agreed, that the form and content of any irradiated fuel elements shall not be altered after their removal from the reactor prior to delivery to the United States Commission or the facilities acceptable to the United States Commission for reprocessing.

“H. Within the limitations contained in Article IX, the quantity of uranium enriched in the isotope U-235 transferred by the United States Commission under this Article and in the custody of the Government of the Republic of South Africa for the fueling of reactors or reactor experiments shall not at any time be in excess of the quantity thereof necessary for the loading of such reactors or reactor experiments, plus such additional quantity as, in the opinion of the Parties, is necessary for the efficient and continuous operation of such reactors or reactor experiments.

“I. Special nuclear material produced, as a result of irradiation processes, in any part of the fuel leased under this Agreement shall be for the account of the Government of the Republic of South Africa and, after reprocessing as provided in paragraph G of this Article, shall be returned to the Government of

the Republic of South Africa, at which time title to such material shall be transferred to that Government, unless the Government of the United States of America shall exercise the option, which is hereby granted, to retain, with a credit to the Government of the Republic of South Africa based on the prices in the United States of America referred to in paragraph F of this Article, any such special nuclear material which is in excess of the needs of South Africa for such material in its program for the civil uses of atomic energy.

“J. Some atomic energy materials which the Government of the Republic of South Africa may request the United States Commission to provide in accordance with this Agreement are harmful to persons and property unless handled and used carefully. After delivery of such materials to the Government of the Republic of South Africa, the Government of the Republic of South Africa shall bear all responsibility, insofar as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any special nuclear material or fuel elements which the United States Commission may lease pursuant to this Agreement to the Government of the Republic of South Africa or to any private individual or private organization under its jurisdiction, the Government of the Republic of South Africa shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for any cause whatsoever arising out of the production or fabrication, the ownership, the lease, and the possession and use of such special nuclear material or fuel elements after delivery by the Commission to the Government of the Republic of South Africa or to any private individual or private organization under its jurisdiction.”

#### *Article V*

Article IX of the Agreement for Cooperation is deleted and the following new Article inserted in lieu thereof:

“The adjusted net quantity of U-235 in enriched uranium transferred from the United States of America to the Republic of South Africa under Articles VI, VII, or VIII during the period of this Agreement for Cooperation shall not exceed in the aggregate 500 kilograms. The following method of computation shall be used in calculating transfers, within the ceiling quantity of 500 kilograms of U-235, made under said Articles:

From:

- (1) The quantity of U-235 contained in enriched uranium transferred under said Articles, minus
- (2) the quantity of U-235 contained in an equal quantity of uranium of normal isotopic assay,

**Subtract:**

- (3) the aggregate of the quantities of U-235 contained in recoverable uranium of United States origin either transferred to the United States of America or to any other nation or group of nations with the approval of the Government of the United States of America pursuant to this Agreement, minus
- (4) the quantity of U-235 contained in a equal quantity of uranium of normal isotopic assay.”

*Article VI*

Article XI of the Agreement for Cooperation, as amended, is amended to read as follows:

“The Government of the Republic of South Africa guarantees that:

- (1) Safeguards provided in Article X shall be maintained.
- (2) No material, including equipment and devices, transferred to the Government of the Republic of South Africa or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement and no special nuclear material produced through the use of such material, equipment and devices, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose.
- (3) No material, including equipment and devices, transferred to the Government of the Republic of South Africa or authorized persons under its jurisdiction pursuant to this Agreement and no special nuclear material produced through the use of such material, equipment, or devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of South Africa, except as the United States Commission may agree to such a transfer to another nation or group of nations, and then only if, in the opinion of the United States Commission, the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and the other nation or group of nations.”

*Article VII*

Article XII of the Agreement for Cooperation, as amended, is amended to read as follows:

“A. The Government of the United States of America and the Government of the Republic of South Africa note that, by an agreement signed by them and the International Atomic Energy Agency on February 26, 1965,<sup>1</sup> the Agency

<sup>1</sup> United Nations, *Treaty Series*, vol. 556, p. 69.

has been applying safeguards to materials, equipment and facilities transferred to the Government of the Republic of South Africa under this Agreement for Cooperation. The Parties agree that Agency safeguards shall continue to apply to such materials, equipment and facilities as provided in the trilateral agreement, as it may be amended from time to time or supplanted by a new trilateral agreement, recognizing that the safeguards rights accorded to the United States by Article X of this Agreement are suspended during the time and to the extent that Agency safeguards apply to such materials, equipment and facilities.

“B. In the event that the trilateral agreement referred to in paragraph A of this Article should be terminated prior to the expiration of this Agreement and the Parties should fail to agree promptly upon a resumption of Agency safeguards, either Party may, by notification, terminate this Agreement. In the event of termination by either Party, the Government of the Republic of South Africa shall, at the request of the Government of the United States of America, return to the Government of the United States of America all special nuclear material received pursuant to this Agreement and still in its possession or in the possession of persons under its jurisdiction. The Government of the United States of America will compensate the Government of the Republic of South Africa for its interest in such material so returned at the United States Commission’s schedule of prices then in effect domestically.”

#### *Article VIII*

This Amendment shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of such Amendment and shall remain in force for the period of the Agreement for Cooperation, as hereby amended.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Amendment.

DONE at Washington, in duplicate, this seventeenth day of July, 1967.

For the Government of the United States of America:  
Herman POLLACK  
Glenn T. SEABORG

For the Government of the Republic of South Africa:  
H. L. T. TASSWELL

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